

United States District Court Southern District Of New York

(SGT.) LOGAN LEFKOWITZ,
Plaintiff

-in opposition to-

No. _____
**Individual and
Official Capacity
Verified Complaint
JURY DEMAND**

CAPTAIN ROBERT GUALT *et al.*,
CANDIDATE ASSESSMENT DIVISION,
DEPUTY INSPECTOR TERRELL ANDERSON,
L.T. JOHN SCHILLINGER OPERATIONS COORDINATOR,
CHIEF OF PERSONEL DEPARTMENT OF THE NYPD,
NEW YORK POLICE DEPARTMENT (NYPD),
NYPD COMMISSIONERS' OFFICE,
KEECHANT SEWELL
SGT. COLLEEN FITZPATRICK
DETECTIVE BRIENNE WARREN
KIM WANG ADMINISTRATIVE MEDICAL STAFF ANYLYST
ALEXANDER STRATIS SUPERVISING NYPD PSY.D
Defendant

RECORDED
SERIAL FILED
2023 JUN 30 PM 4:04

COMPLAINT

PREFRATORY I.

With Good Faith and Cause comes Sergeant Logan Lefkowitz, (herein thereafter as “SGT”). SGT. Logan Lefkowitz (*herein thereafter “Lefkowitz”*) is a dedicated and exemplary police officer who has faithfully served the New York Police Department (NYPD) for over 20 years. Sgt. Lefkowitz voluntarily retired on the Sixth (6th) Day of May 2022 with good standing. Accordingly, Lefkowitz was seeking to reclaim his position within the department under NYPD rules. However, Lefkowitz was never given “some” answer nor a hearing with respect reinstatement. Lefkowitz displayed exemplary conduct as a Sergeant, and he upheld the laws in New York and most importantly his Constitutional oath. Lefkowitz began his career with the New York City Police Department and quickly demonstrated his commitment to public safety, professionalism, and his devoutness to the State and United States Constitutions. Throughout his tenure, he consistently rose through the ranks due to his exceptional performance, dedication, and leadership skills. During his time with the department, *Sgt. Lefkowitz* contributed significantly to the reduction of crime rates, the enhancement of community relations, and the overall improvement of the department's efficiency and effectiveness. As a result, he gained the respect and admiration of his colleagues and superiors alike.

Against this backdrop, the *United States Constitution* pursuant to the *Fifth Amendments' Due Process Clause*, (U.S. CONST AMEND V.) warrants at the very least, some notice AND in most instances a hearing. Lefkowitz has not received any notice whatsoever. Conversely, there are numerous ways in which the department and community would have benefited from his return to his original position. Notably, Lefkowitz request fell within NYPD Rules and administrative procedures.

Additionally, under the Americans with Disabilities Act and Age Discrimination Employment Act under *42 U.S.C. § 1983*, Lefkowitz has a prima facie subject matter that gives rise to total corruption within the department that has cause severe intentional infliction of emotional distress. Because the NYPD's conduct gives rise to discrimination, the denied opportunity to return to work without a legitimate reason, hinders the **U. S CONST AMEND V. and XIV.** Moreover, age discrimination is prohibited under federal law by the *Age Discrimination in Employment Act (ADEA)*, which prohibits employers from discriminating against employees or job applicants who are 40 years of age or older. Reinstatement is appropriate. Compensatory damages are warranted.

**New York City Administrative Code NYC Administrative Code 8-101
New York City Administrative Code Administrative Code of the City of New
York > Title 8 Civil Rights CHAPTER 1 COMMISSION ON HUMAN
RIGHTS***

§ 8-101 Policy.

[Effective until Nov. 21, 2023] In the city of New York, with its great cosmopolitan population, there is no greater danger to the health, morals, safety and welfare of the city and its inhabitants than the existence of groups prejudiced against one another and antagonistic to each other because of their actual or perceived differences, including those based on race, color, creed, age, national origin, immigration or citizenship status, gender, sexual orientation, disability, marital status, partnership status, caregiver status, sexual and reproductive health decisions, any lawful source of income, status as a victim of domestic violence or status any fashion.

Additionally, the *Americans with Disabilities Act (ADA)* prohibits discrimination against individuals with disabilities if founded, which could include physical or mental impairments that may be related to their time served as a police officer. If the retired sergeant had a disability and was denied the opportunity to return to work because of it, the NYPD has violated the ADA. Here, it appeared that Lefkowitz did not have one. Additionally, the defendants did not provide notice, nor a hearing or final notice if as such. That conduct violates the Fifth and Fourteenth Amendments Due Process Clause. Further, the retired sergeant shall have a claim under New York State law, which prohibits discrimination based on age, disability, and other protected characteristics including religion. The New York State Human Rights Law Act (NYSHRL) provides only broad protection. However, we promulgate a Federal Question under 28 U.S.C. § 1331.

JURISDICTION AND VENUE II.

Federal Question under 28 U.S.C. § 1331.

- (1.) Would an exemplary good standing former NYPD police Sergeant who voluntarily retired less than a year ago; has exhausted his administrative remedies, hold a Due Process procedural protected interest in reinstatement after qualifying pursuant to a timely manner under NYPD policy, but potentially denied discriminatingly based on religion or personal reasons?

STATEMENT OF CLAIMS FOR RELIEF

1. Around the Holidays thereafter Thanksgiving and before Christmas Of 2022, Detective Brienne Warren spoke with Lefkowitz telephonically about the reinstatement process.
2. Around the holidays of 2022, Det. Warren states that Lefkowitz should begin the reinstatement process 3 months before the 1-year mark anniversary on retirement under NYPD policy.
3. On January 26th, 2023, SGT Colleen Fitzpatrick assigned to the Human Resources Division at 1 Police Plaza emailed Lefkowitz instructions for the reinstatement process and instructed him to write a letter addressed to

the commissioner's office. That same day Lefkowitz submitted a (49) to email: pc.office@nypd.org

4. On or about January 31st, 2023, SGT Lefkowitz received an email from Det. Warren on instructions on how to reinstate with exact pay and posture as a sergeant and sent the application as well. She also stated she was his assigned investigator. After thanksgiving and before Christmas SGT started making phone calls to detective Brienne Warren of the NYPD to get information on reinstatement back to the NYPD.
5. A few days after January 31st, 2023, Lefkowitz received a phone call from Det. Warren where she scheduled him for the medical assessment, and she received his 49 forms from the PCs' office.
6. On Feb 8th Lefkowitz completed his medical assessment and filled out a candidate medical assessment questionnaire at the Candidate Assessment Division located at 230 East 20th Street, New York, NY 10003.
7. Thereafter he received an email stating that the reinstatement process is under medical review.
8. Lefkowitz was directed by Kim Wang to produce additional medical documents related to his pulmonary and knee condition including a chest x-ray, knee x ray, pulmonary function exams and clearance letters from

his doctors. Logan received a phone call from Kim Wang that he was cleared medically under pulmonology.

9. Logan was directed to go to an orthopedic NYPD surgeon.

10. The last step in the medical process was to go see the NYPD orthopedic Surgeon for medical clearance for his back and knee condition.

11. On or about March 2nd, 2023, at 6:AM Lefkowitz had an appointment with Dr. Henry MD at the NYPD Medical Division located at 59-17

Junction Boulevard, 16th Fl, Corona, NY 11368. Dr. Henry -who works for the NYPD -cleared Lefkowitz of his medical process and to become reinstated with active and full duty capacity.

12. Analyst Kim Wang is the administrative staff analyst. Her job is to place material facts of a candidate's medical history into the candidate's file.

Shortly after March 2, 2023, she notified Lefkowitz that he was cleared medically.

13. Lefkowitz as part of the reinstatement procedures was ordered to do a written psychologist test on March 6th, 2023. That day, Lefkowitz had his first interview with Alexander Stratis the department psychologist as part of the reinstatement process.

14. Lefkowitz was directed by Alexander Stratis to have Lefkowitz produce more medical records including for the last 7 years of primary care physician records and therapy records from different times.
15. Thereafter, on March 30th, 2023, Dr. Stratis received the medical records from a primary care doctor. Dr. Alexander explained via email that he received the medical records but would schedule Lefkowitz for a second interview.
-
16. On April 6th Lefkowitz went for the last interview with Alexander Stratis in the reinstatement process.
17. Alexander stated on April 6th, I will bring you back to duty, but if you have any medical concerns, please contact us, or seek help immediately. The interview completed and Alexander stated, "take care." Logan asked does that mean I am cleared with you psychologically and ready for reinstatement, Alexander replied yes.
-
18. On or about February 15th, 2023, Dr. Basti cleared Lefkowitz for pulmonary review based on a chest x ray and Pulmonary function test.
19. Dr. Wallach cleared Lefkowitz of his artery on March 9th, 2023.
20. On March 9th, Kim Wang stated as per Doctor Wallach, "you are medically qualified to move on with reinstatement process."

21. On March 29th, 2023, Detective Warren sent an email to Lefkowitz stating that you were cleared for medical and awaiting psych. Via phone call, around or about between April 16th and the 21st, Lefkowitz called Warren asking if he was cleared for reinstatement.
22. On or around March 29, 2023, Lefkowitz attempted several phone calls to Detective Warren but received no answer.
23. On April 12th, 2023, Lefkowitz sent an email requesting anything in writing stating that he passed the psychological part. Lefkowitz received no response.
24. Between April 16th and the 21st, Lefkowitz had a phone conversation with Det. Warren about clearing the psychological process and can he move forward. She replied, "yes you are cleared."
25. On or about the 21st of April 2023, Lefkowitz emailed Det. Warren to please give him a call to see where he was *inter alia*.
26. On April 24th, Detective Warren responded via email stating that his *form 49* (department letter from *NYPD*) that his reinstatement was changed to a disapproval. She stated, "call me around 12 pm in the afternoon."
27. She stated on the phone that it was not psychological or medical at all, but Lefkowitz was cleared. Detective Warren had a phone call around

this time in April on the 24th around 3 pm respecting the subject matter of Lefkowitz' *NYPD 49* report. Apparently, that abruptly changed without explanation. She stated the *49s* comments comes from Captain Gault and whereas: "SGT Lefkowitz has unfavorable qualities for the NYPD and lacks motivation."

28. On April 25th, 2023, via email Warren stated, "your paperwork is at the chief of personnel., and I will let you know what happens." Lefkowitz responded on April 26th, 2023; "I know you told me; however, I still need to speak with you. If this is because of one captains' comment- it is Ludacris; is there not an appeal process, interview, [h]earingⁱ or no?" Additionally, Lefkowitz sought an answer on approval or disapproval.
29. On or about April 26th, 2023, Lefkowitz requested a copy of the newly changed 49 via email and if there were any changes. She stated, "no sorry, candidates do not get their cases or 49s'." (*see email exhibits*).

30. On or about 04/27/2023 Lefkowitz in a last-ditch attempt stated verbatim to Det. Warren: - "Hi Brienne, Good Afternoon, I don't understand this. Who Originally approved my 49 and when exactly was it changed to disapproved.? I know you told me you don't know why but I think it is a valid question. Last week I thought everything was in process to move

forward to be sworn in, so I didn't get into contact with you and [n]ow surprisingly this happens.

31. On or about 04/27/2023 Warren answers via email. "The reinstatement was disapproved by my C.O. He is the first person who makes a decision and 49 goes up the chain [o]f command. I didn't say it wasn't a valid question, I said your reinstatement was compiled from information from your CPR ([central personnel record) and from recommendations. Of course, your process is moving forward. That is what happens when a psych and investigation is conducted.

32. On or about 04/27/2023- Email to Warren; "What I meant was that you said it was changed to disapproved. Why was it first approved and then disapproved."

33. On or about 04/28/2023- Email from Warren "The report is written and then it's decided, approved, or disapproved after CO goes over everything.

34. On or about 05/01/2023- Email to Warren" Hi, Will I be informed in writing, such as a letter in the mail if the decision is made not to reinstate me." She never answered.

STATEMENT OF CLAIMS INCORPORATED NOS. 1-35 ABOVE

Count I - Age Discrimination

1. The Plaintiff incorporates the previous paragraphs by reference and throughout the additional counts.
2. The Defendant engaged in discriminatory practices in violation of the Age Discrimination in Employment Act (ADEA) incorporated within paragraphs 1-35.
3. The Plaintiff, and because of the Defendant's discriminatory actions, suffered compensatory damages, including everything incorporated within paragraphs # 1-35.

Count II.- Violation of § 8-101 Policy Giving Rise to Arbitrary and Capricious Conduct by defendants incorporated within paragraphs 1 through 35 and is punitive.

Count III. -Violation of Procedural Due Process U.S. CONST. AMEND V. and XIV, as incorporated within paragraphs 1 through 35.

35. With respect to finality, Lefkowitz never did receive a formal email or notice in the mail, letter, phone call or anything stating he was approved or denied for reinstatement as of this filing.

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests that this Court do the following and order at least \$5,250,000.00 U.S. Dollars as such and accordingly.

A. Declare that the Defendant's actions violated the **Age Discrimination in Employment Act (ADEA); NEW YORK STATE NYPD POLICY** and Procedures incorporated within paragraphs 1-35.

B. Award compensatory damages, including back pay, front pay, and any other appropriate equitable relief.

C. Award punitive damages, if applicable, to deter future discriminatory practices.

D. Order reinstatement of Lefkowitz at full capacity as an NYPD Sergeant with same seniority and pay grade absent retaliation.

D. Award attorney's fees and court costs pursuant to applicable laws.

E. Grant and or such other further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

The Plaintiff demands a trial by jury on all issues so triable and respectfully.

Very Truly Yours,

/s/ *Logan Lefkowitz*

Prospection

442 5th Ave, Ste 1552

New York, NY 10018

¹ **US. CONST AMENDMENT V, XIV**, GURANTEES SOME NOTICE OR HEARING FOR A DEPRIVATION OF LIFE, LIBERTY, OR PROPERTY. (SEE) *Matthews v. Eldridge* 109 U.S. 588, (1969); *Goldberg. V Kelly* 397, U.S. 254 (1970)

CERTIFICATE of SERVICE

I Logan Lefkowitz, have sent this document and have served all parties and a true copy was sent via USPS Mail on 06/23/23. By and through.

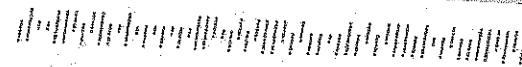
Very Truly Yours,

442 5th Ave,
suite 1552
New York, NY 10018
516-844-3562

/s/ *Sergeant Logan Lefkowitz*

06/23/23

LOGAN Letkowitz
c/o PROSPECTOR
442 5th Ave, Ste 1552
New York, NY 10018



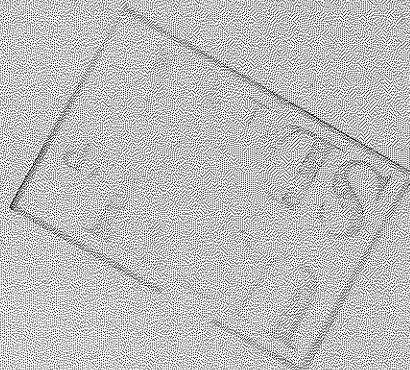
Albany PSDC 122

TUE 27 JUN 2023 AM

\$1.260
US POSTAGE
FIRST-CLASS
062S0001443238
FROM 12550

\$1.260
US POSTAGE
FIRST-CLASS
062S0001443238
FROM 12550

United States District Court
500 PEARL STREET
New York, NY 10007
Pro. Sec. Clerk



SENY JUN 27 2023